

REMARKS

This is a Response to the Office Action mailed June 8, 2006, in which a three (3) month Shortened Statutory Period for Response has been set. The three (3) month Shortened Statutory Period for Response expired on September 8, 2006. Applicants have included herewith a petition for a one (1) month extension of time. Twenty (20) claims, including two (2) independent claims, were paid for in the application. Claims 1, 4-7, 9-11, and 13-15 are currently amended. Claims 21-24 have been added. No new matter has been added to the application. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Upon entry of the amendments herewith, claims 1, 4-15, and 21-24 are pending.

1. Rejections Under 35 U.S.C. § 112, Second Paragraph

In the Office Action, at section 4, page 2, claim 15 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

In particular, claim 15 was rejected for a lack of antecedent basis for the word “method,” which was included in the preamble of claim 15. Claim 15 has been amended, and the word “method” has been replaced by the word “label.” Therefore, Applicants respectfully request that the rejection of claim 15 under 35 U.S.C. § 112, second paragraph, be withdrawn.

2. Rejections Under 35 U.S.C. § 103(a)

In the Office Action, at section 7, page 3, claims 1 and 4-15 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Litman* (U.S. Patent 5,988,500), hereinafter *Litman*, in view of *Asada et al.* (U.S. Patent 5,854,148), hereinafter *Asada*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

A. Independent Claim 1

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that the proposed combination of *Litman* in view of *Asada* does not disclose, teach, or suggest at least a the limitation of “a **mesh carrier** having a surface **with indicia printed with magnetic ink**, wherein the indicia is a machine-readable symbology” as recited in amended claim 1. (Emphasis added.)

In the Office Action, at section 4, page 4, the rejection of claim 1 states that *Litman* fails to specifically recite that “the indicia is machine readable symbology,” and the Office Action relies upon *Asada* for disclosing machine-readable symbology. In particular, the Office Action states that *Asada* discloses “a bar code which is printed on garments (column 3, lines 2 – 18, column 4, lines 25 – 39), the fiber cloth is woven or non-woven.”

Asada discloses printing an *optically* readable mark on the surface of a fiber cloth (emphasis added). (Column 3, lines 57-59.) *Asada* fails to disclose the type of ink used to print an “optically readable mark.” There is no apparent reason to believe that *Asada* uses magnetic ink to print an “optically readable mark.” Thus, Applicants respectfully submit that *Asada* fails to teach, or suggest *printing* on a surface an *indicia with magnetic ink*.

Litman discloses a variety of ways to manufacture the magnetic elements such as vapor deposition, electrostatically depositing magnetic particles onto filaments, etc. (column 16, lines 12-26), and *Litman* discloses using Permalloy™ (global), which the U.S.P.T.O. cites as being a magnetic ink. However, Applicants respectfully submit that *Litman* fails to disclose, teach, or suggest *printing* on a surface an *indicia with magnetic ink*. In particular, *Litman* states the following:

Magnetic coatings are to be applied to the filaments by conventional *vapor deposition* or coating of the polyester filaments with a *coating solution* of particulate (e.g., less than 0.05 mm) magnetic Permalloy™ particles in a dissolved binder which adheres satisfactorily to polyester (e.g., another polyester in solution/dispersion). ... One filament of a pair of 0.1 mm filaments is *coated with Permalloy™ by vapor deposition* (filament 1) and the other (filament 2) is coated with a lower surface area density of the same magnetic material by solution coating with a 10% solids solution of 5% by weight magnetic particles and 5% by weight polyester binder.” (Column 19, lines 18-33; Emphasis added.)

Thus, Applicants respectfully submit that the combination of *Litman* and *Asada* fail to disclose, teach, or suggest *printing* on a surface an *indicia with magnetic ink*, and therefore, Applicants respectfully request that this rejection be withdrawn.

B. Dependent Claims 2-15

Claims 4-15 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over the combination *Litman* and *Asada*. Because independent claim 1 is allowable over the combination of *Litman* and *Asada*, dependent claims 4-15, which depend from independent claim 1, are allowable as a matter of law for at least the reason that the dependent claims 4-15 contain all features/elements of independent claim 1. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

3. New Claims

Applicants have added claims 21-24 that further define other embodiments of the invention. No new matter has been added by way of these amendments.

4. Conclusion

In light of the above amendments and remarks, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that all pending claims 1 and 4-15, and 21-24 are allowable. Applicants, therefore, respectfully request that the Examiner reconsider this application and timely allow all pending claims. The Examiner is encouraged to contact the undersigned by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, he is further encouraged to contact undersigned by telephone to expediently correct such informalities.

Application No. 10/622,559
Reply to Office Action dated June 8, 2006

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

A handwritten signature in cursive script, reading "Eric M. Ringer", is written over a horizontal line.

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